

**IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF DELAWARE**

APPLE INC,

Plaintiff,

v.

MASIMO CORPORATION and SOUND  
UNITED, LLC,

Defendants.

MASIMO CORPORATION and CERCACOR  
LABORATORIES, INC.,

Counter-Claimants,

v.

APPLE INC,

Counter-Defendant

**DEFENDANTS' MOTION TO CONSOLIDATE**

Pursuant to Fed. R. Civ. P. 42(a), Defendants Masimo Corporation and Sound United, LLC move for an order consolidating a companion case filed by Plaintiff Apple Inc. against Defendants—*Apple Inc. v. Masimo Corporation and Sound United, LLC*, Civil Action No. 22-1377 (MN)—with this case. The companion case was filed on the same day as this case and involves the same parties and the same accused product. The grounds for this motion are set forth in detail in a corresponding motion to consolidate, opening brief and supporting declaration Defendants filed in the companion case, Civil Action No. 22-1377 (MN), and are incorporated by reference as if fully set forth herein.

Pursuant to District of Delaware Local Rule 7.1.1, counsel for Defendants certify that they have met and conferred with opposing counsel regarding Defendants' Motion to Consolidate and that a reasonable effort has been made to reach agreement with the opposing party on the matters set forth in the motion, but Plaintiff Apple Inc. indicated that it would oppose the motion.

Respectfully submitted,

February 24, 2023

PHILLIPS McLAUGHLIN & HALL, P.A.

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By: /s/ John C. Phillips, Jr.

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